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OCT - 9 2002

October 9, 2002

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

VIA COURIER

EX PARTE OR LATE FILED

Marlene H. Dortch, Secretary
Federal Communications Commission
The Portals
445 12th Street, S.W.
Washington, D.C. 20554

> **Re:** **Notice of *Ex Parte* Meeting in** CC Docket No. 99-68, CC Docket No. 96-98, CC Docket No. 01-339, and WC 02-306

Dear Ms. Dortch:

This letter is to advise you that an error in the "Re" line of the October 7, 2002 Notice of Ex Parte Meeting has been corrected and a replacement letter is attached to correct the reference to Docket WC 02-236, which should have been Docket WC 02-306.

Please replace the original and one copy of the October 7, 2002 Notice of Ex Parte Meeting with the attached corrected original and one copy in Docket WC 02-306.

Sincerely,

Richard M. Rindler

RMR/kas

cc: Christopher Libertelli
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> **Re:** **Notice of *Ex Parte* Meeting in** CC Docket No. 99-68, CC Docket No. 96-98, CC Docket No. 01-339, and WC 02-306

Dear Ms. Dortch:

Pursuant to Section 1.120(b)(2) of the Commission Rules, this letter is to provide notice in the above-captioned proceedings of an *ex parte* meeting. On October 7, 2002, John Sumpter (Vice President-Regulatory of Pac-West Telecomm, Inc.) and the undersigned met with Christopher Libertelli, Advisor to the Chairman.

At the meeting, we discussed the structure of the Pac-West network and the negative impact on network development and deployment of the Commission's interim compensation structure for intercarrier compensation for ISP-bound traffic. As a result of that compensation structure, Pac-West exited markets it had entered shortly before the imposition of the compensation structure and did not expand into new markets. Given the anticompetitive impact of the interim compensation structure, the substantially changed circumstances in the competitive industry since the adoption of the Order and the significant reduction in the compensation level as a result of the Order, Pac-West urged that the Commission remove the new market and growth cap provisions of its intercarrier compensation Order for ISP-bound traffic.

We also discussed the impact of the RBOC's interpretation of the Commission's use restrictions on the availability of EELs and combinations and the negative impact the restrictions had on the development of facilities-based competition. Finally, we discussed the pending application of Pacific Bell for interLATA authority. We noted that the Commission must

carefully consider the significance of the factual finding by the California Public Utility Commission that the grant of authority would not be in the public interest.

Pursuant to Section 1.1206(a)(i) of the Commission's Rules, an original and one copy for each docket of this letter are being submitted to the Secretary for filing in the above-referenced proceeding.

Sincerely,

Richard M. Rindler

RMR/kas

cc: Christopher Libertelli

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